

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**TRAFFIC INFORMATION, LLC,**

**Plaintiff**

**VS.**

**BANK OF AMERICA CORP., BANK OF AMERICA, NAT'L ASSN., JP MORGAN CHASE & CO., LIVINGSOCIAL US, LLC, LOOPT, INC., WANDERSPOT, LLC, WHERE, INC., WOODFOREST NAT'L BANK, YELP! INC., and ZILLOW, INC.,**

## Defendants.

**NO. 2:11-CV-00343-JRG-RSP**

## Jury Trial Demanded

**DEFENDANTS' MOTION JOINING THE MOTION FILED IN *TRAFFIC INFORMATION, LLC v. HUAWEI TECHNOLOGIES, CO., LTD.* TO CONTINUE THE STAY PENDING PLAINTIFF'S APPEAL OF THE FINAL *EX PARTE* REEXAMINATION THAT INVALIDATED ALL CLAIMS**

Defendants Wanderspot, LLC, Where, Inc., Woodforest National Bank, Yelp Inc. (f/n/a Yelp! Inc.), and Zillow, Inc. (collectively “Defendants”) join in the Second Motion to Continue the Stay Pending Plaintiff’s Appeal of the Final *Ex Parte* Reexamination That Invalidated all Claims (the “Motion to Continue the Stay”) filed in the action *Traffic Information, LLC v. Huawei Technologies, Co., Ltd., et al.*, No. 2:10-CV-145-JRG, Dkt. No. 235. Defendants attach a copy of that motion as Exhibit “A.”

The arguments made in the Motion to Continue the Stay apply equally to this case. And, for all of the reasons stated therein – which Defendants incorporate by reference – the stay of this case should be extended an additional six months while Plaintiff Traffic Information, LLC

(“Traffic”) appeals the *ex parte* reexamination of U.S. Patent No. 6,466,862 (“the ‘862 Patent”) in which the PTO invalidated *all* the asserted claims.<sup>1</sup>

Additionally, the justification for continuing the stay is even stronger in this case. In this case, *no* discovery – other than Plaintiff’s 3-1 disclosures – has been exchanged. Moreover, as the Court recognized in its May 30, 2012 Order granting the stay, Traffic will not suffer any prejudice if this case is stayed because Traffic’s claims against Defendants are premised upon the use of technology made by third-parties who are not Defendants in this case:

Traffic’s chief concern is that a delay in these actions may result in the loss of critical evidence and increase the difficulty in obtaining key infringement evidence. However, a stay of limited duration alleviates these concerns. Additionally, as urged by Defendants, Traffic’s theory of infringement in these cases is based upon the use of third-party technology. For example, Traffic contends that Defendants infringe the ‘862 Patent through their customer’s alleged use of the AT&T Navigator mobile app operating on a Huawei Impulse mobile device, and specifically their use of the ‘TeleNav traffic feature’ of the AT&T Navigator mobile app whose ‘traffic information’ is allegedly provided by ‘Inrix’s Smart Dust Network.’ As such . . . most of the evidence supporting Traffic’s infringement claims against Defendants will come from the following third parties, each of whom Traffic has sued in separate actions and from whom Traffic is presumably seeking discovery: AT&T Mobility, Huawei Technologies, TeleNav, Inc., and Inrix, Inc. Given this, the Court finds Traffic’s concerns are unsupported, and a stay of limited duration will not prejudice Traffic.

[Dkt. No. 169 at 9-10.]

Accordingly, Defendants respectfully request that the Court continue the stay entered by the Court on May 30, 2012.

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<sup>1</sup> Defendants also note that for fiscal year 2013 to date, of the 129 appeals of reexams disposed of by the Patent Trial and Appeal Board (hereinafter “PTAB”), 72 have been affirmed and 31 have been affirmed-in-part. Fiscal Year 2013 Cumulative Dispositions for the PTAB at [http://www.uspto.gov/ip/boards/bpai/stats/receipts/fy2013\\_mar\\_e.jsp](http://www.uspto.gov/ip/boards/bpai/stats/receipts/fy2013_mar_e.jsp) (see Technology Center 3900 – the Central Reexamination Unit).

Dated: May 17, 2013

Respectfully Submitted,

By: /s/ Jay Yates (with permission)

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**CERTIFICATE OF CONFERENCE**

I hereby certify that counsel for Plaintiff and Defendants have conferred on the issues addressed herein and counsel for the Plaintiff have indicated they oppose the relief sought by this Motion.

/s/ Kevin A. Zeck  
Kevin A. Zeck

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served to all counsel of record via the Court's electronic delivery system, and via electronic mail, this 17th day of May, 2013.

/s/ Kevin A. Zeck  
Kevin A. Zeck